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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

EXAMINER

PICH, PONNOREAY

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2135

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/056,982	Applicant(s) HOFFMAN, NED	
	Examiner Ponnoreay Pich	Art Unit 2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-59 are pending. Any objections or rejections not repeated below for record are withdrawn due to applicant's amendments and/or arguments. Any well known art statements not argued by applicant are taken as admittance of prior art as per MPEP 2144.03.

Response to Arguments

Applicant's arguments have been noted, but are moot in view of new grounds of rejections presented below. However, the examiner will address applicant's arguments as Matchett is still used as a reference and the examiner wants the rejections to be as understandable as possible.

Applicant argues Matchett teaches an authentication system and not an identification system, thus is not the same as applicant's invention as recited in the claims. The examiner notes that the current set of claims does not recite an identification system and the word identification is not used at all. Even if there was a difference in what the terms identification and authentication means, the matter is moot since applicant's claims uses the terms authorization (i.e. independent claims 1 and 28) and authentication (i.e. independent claims 49 and 54), not identification. Further as far as "comparing the real time data with selected records" being an indication of a one-to-many comparison, the examiner submits that the limitation reads on a one-to-many comparison in more ways than applicant seems to be arguing. It also reads on a one-to-many comparison in which one gathered real time data is compared to many stored samples belonging to the same individual. The reason one would want to do this is that

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with biometric data, one cannot guarantee that the same quality data is gathered each time, therefore a comparison with multiple records or samples would give more reliable results. Note further that Matchett discloses that his invention pertains to personal identification systems (col 1, lines 6-11) and user authentication (col 3, lines 10-14).

Applicant argues that Matchett's invention is different because applicant's claimed invention operates with the user aware of its operation and is tokenless while Matchett's invention operates without the user being aware the system is being used and must use tokens or it would be inoperative if it were to perform multiple comparisons, i.e. one-to-many comparisons. The examiner notes that in the current set of claims, applicant did not define whether applicant's invention operates with the user being aware of the invention's operation or not, therefore it does not make a difference that Matchett's invention operates without the user being aware of its operation. The examiner further notes that on page 3, lines 8-9 of applicant's specification, applicant defined tokens as man-made memory devices. Matchett does not disclose anywhere that his invention uses any sort of man-made memory devices to perform authentication. In fact, as applicant points out, his invention gathers real time data from the user silently. Devices that Matchett uses to gather the real time data silently includes a voice capture system (col 11, lines 23-31) or a thumb scanner on a joystick (col 11, lines 47-49). Neither of these devices or other biometric gathering devices disclosed by Matchett are tokens as applicant has defined the term. Even if Matchett's invention does require some means to identify which biometric records to compare the gathered real time data to in order to perform a one-to-many comparison (i.e. such as

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comparing one data with many stored data all belonging to one individual), these means are not necessarily tokens. For example, the user could input a user ID at the start of using Matchett's invention either via a voice capture system or keyboard. A user ID is a well known identification means and is not a man-made memory device and it is certainly not a magnetic strip card or smart card (as applicant seems to be defining a token in the claims, i.e. see final limitation of claim 1).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 30 and 49-59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1. Claim 30 recites "determining one data processing center from among the at least one host system data processing center". It is unclear what it means to determine a data processing center.
2. Claim 49 recites "the gathering means station" which lacks antecedent basis. The examiner assumes applicant meant "the at least one gathering means station".
3. Claim 49 recites in lines 6-8 "access of a first computer network of the at least one computer network via the Internet being sought by the individual using the gathering means station and being dependent on authentication of the

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individual". The quoted limitation makes no sense. Applicant is urged to double check the wording.

4. Claim 54 recites in line 6, "the real time data" which lacks antecedent basis.
5. Any claims not specifically addressed are rejected by virtue of dependency.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17, 19-30, 32-36, and 41-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matchett et al (US 5,229,764) in view of Gullman et al (US 5,280,527).

Claim 1:

As per claim 1, Matchett discloses the following limitations:

1. At least one interconnecting means comprising any of the following: wide area network; X.25; ATM network; Internet network; cable television network; wireless network; and cellular telephone network (Fig 2-3; col 6, lines 2-11; col 7, lines 61-65; and col 8, line 47-col 9, line 3).
2. At least one gathering means for gathering real time data of biometric samples of an individual who has used the at least one gathering mean, the at least one

gathering means linked to the at least one interconnecting means (Fig 2-4; col 4, lines 31-46; and col 9, lines 19-28).

3. At least one computer network lined to at least one interconnecting means, access of the at least one computer network via the at least one interconnecting means being sought by the individual using the at least one gathering means and being dependent on the voluntary tokenless biometric authorization of the individual (Fig 2-3; col 6, lines 52-62; and col 8, lines 9-11).
4. At least one host system data processing center linked to at least one of the at least one gathering means and at least one of the at least one computer networks so as to receive the real time data, the at least one host system data processing center having records of biometric data of one or more enrolled individuals, the at least one host data processing center comparing the real time data with selected data, the comparison being to determine whether the real time data sufficiently matches the selected data as to authorize the individual seeking access to the at least one computer network, wherein the at least one host system data processing center communicates using one of the following: the at least one interconnecting means linked to the at least one gathering means or the at least one interconnecting means linked to the at least one computer network (Fig 2-5; col 7, lines 20-28; col 9, lines 19-35).
5. Wherein the at least one host system data processing center conducts the voluntary tokenless biometric authorization without the individual being required

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to use a magnetic strip card or a smart card (col 11, lines 47-64 and col 12, lines 23-30).

Matchett does not explicitly disclose that the selected data in which the real time data was compared with to determine sufficient matches was selected records (plurality emphasized). However, the examiner asserts that it was well known in the art to compare real time data (i.e. real time biometric data) that was collected from a user with selected records to determine sufficient matches. Gullman discloses real time (biometric) data being compared with selected records for sufficient matches (col 6, lines 13-16). In light of this, at the time applicant's invention was made, it would have been obvious to one of ordinary skill in the art to modify Matchett's invention such that the real time data was compared with selected records, the comparison being to determine whether the real time data sufficiently matches the selected records. One of ordinary skill would have been motivated to do so because it would provide for a more reliable authentication/authorization system. Note that one cannot guarantee the quality of the data gathered, so if one were to compare the gathered data with just one stored record, it would render inaccurate results more often than if one were to compare the gathered data with multiple samples and take an average of the comparisons.

Claim 2:

Matchett further discloses wherein the at least one interconnecting means further comprises a telephone network (col 5, lines 25-34).

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Claim 3:

Matchett further discloses wherein the at least one host system data processing center is linked to at least one of the at least one gathering means via the at least one interconnecting means (Fig 2-4).

Claim 4:

Matchett further discloses wherein the host system data processing center is linked to at least one of the computer networks via the interconnecting means (Fig 2-4 and col 8, lines 9-11).

Claim 6:

Matchett further discloses wherein the at least one host system data processing center is operationally interactive with at least one external, independent computer network (Fig 2-4; col 7, lines 29-34; and col 8, lines 9-31).

Claim 7:

Matchett further discloses wherein the at least one computer network is within the at least one host system data processing center such that the host system data processing center carries out the functions requested by the individual without use of an external, independent computer network (Fig 2; col 6, lines 37-48; and col 12, lines 31-43).

Claim 8:

Matchett discloses a host system data processing center provides for comparison of the real time data with other selected records, the comparison being to

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determine whether the real time data sufficiently matches the other selected records as to authorize the individual (col 6, lines 52-62).

Matchett does not explicitly disclose when an individual fails the voluntary tokenless biometric authorization, at least one additional host system data processing center provides for the comparison. However, Matchett discloses an individual failing authorization and a more accurate test is performed for authentication (col 7, lines 20-27). The examiner further asserts that backup data processing centers were well known at the time the applicant's invention was made. It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified Matchett's invention according to the limitations recited in claim 8. One of ordinary skill would have been motivated to do so as an additional host system data processing center would provide backup for the main center should the center be down or a more accurate test was needed.

Claim 9:

Matchett further discloses wherein the at least one gathering means further comprises:

1. At least one biometric input means for gathering biometric samples, further comprising a hardware and software component (Fig 2-4 and col 7, lines 29-34).
2. At least one terminal means that is functionally partially or fully integrated with the biometric input means for input of or appending ancillary data (col 5, lines 25-28 and col 6, lines 3-11).

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3. Means for connecting the at least one biometric input means and the terminal
(col 5, lines 25-34 and col 6, lines 3-11).

Claim 10:

Matchett further discloses wherein the terminal is an electronic device that issues commands to and receives results from the at least one biometric input means (col 5, lines 25-34; col 6, lines 3-11; and col 12, lines 39-43).

Claim 11:

Matchett discloses the terminal is selected from the group of: telephones, personal computers, and wireless personal computers (col 5, lines 25-34; col 6, lines 3-11; and col 8, lines 19-31). Matchett does not explicitly disclose the group of: facsimile machines, TV remote controls, TV-top cable boxes, credit/debit card processors, cash registers, and automated teller machines. However, the examiner asserts that facsimile machines, TV remote controls, TV-top cable boxes, credit/debit card processors, cash registers, and automated teller machines were all well-known types of terminals at the time the applicant's invention was made. It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have further modified Matchett's invention according to the limitations recited in claim 11. One of ordinary skill would have been motivated to do so as it would allow Matchett's biometric authentication system to be used to protect a wider variety of devices and systems. Note that Matchett discloses that his invention can be used to protect any system or device (col 3, lines 15-20).

Claim 12:

Matchett further discloses wherein the at least one host system data processing center further comprises an execution means having at least one database for storage and retrieval of data (col 6, lines 37-48 and col 9, lines 4-9).

Claim 13:

Matchett further discloses wherein the database further comprises a biometric database storing at least the records of biometric data (col 5, lines 57-63 and col 6, lines 37-48).

Claim 14:

Matchett does not explicitly disclose wherein the database further comprises a prior fraud check database. However, the examiner asserts that the use of prior fraud check databases is well known in the art at the time the applicant's invention was made. It would have been obvious to one of ordinary skill in the art to have further modified Matchett's invention according to the limitations recited in claim 14. One of ordinary skill would have been motivated to do so as it would allow for easier identification and apprehension of individuals who try to commit fraudulent acts, leading to improved security.

Claim 15:

Matchett implicitly discloses wherein the database further comprises an electronic document database (col 5, lines 57-63 and col 6, lines 37-48).

Claim 16:

Matchett implicitly discloses wherein the database further comprises an electronic signature database (col 5, lines 57-63 and col 6, lines 37-48).

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Claim 17:

Matchett further discloses wherein the at least one gathering means further comprises means for gathering ancillary data from the individual, the ancillary data comprising any of the following: a name, an address, a title, a personal identification code, an electronic mail address, a financial asset account number, an electronic transaction command, and an electronic transmission command (col 5, lines 25-28 and 44-47; col 9, lines 4-8; and col 12, lines 39-43).

Claim 19:

Matchett further implicitly discloses wherein said electronic transmission command is an electronic message command other than an electronic financial command, comprising the execution of any of the following: an electronic fax document, a digital certificate, a network credential, an electronic signature, and electronic data packet, and electronic document, and an electronic mail message (col 5, lines 25-28 and 44-47; col 9, lines 4-8; and col 12, lines 39-43).

Claim 20:

Matchett further implicitly discloses wherein the execution means further comprises a means for electronically executing the electronic transaction command (col 9, lines 4-8).

Claim 21:

Matchett further implicitly discloses wherein the execution means further comprises means for electronically executing the electronic transmission command (col 9, lines 4-8).

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Claim 22:

Matchett does not explicitly disclose wherein the execution means further comprises means for assigning a code to the ancillary data, for the purposes of any of the following: tracking of the ancillary data, archival of the ancillary data, and retrieval of the ancillary data. However, Matchett discloses that his invention is ideal for protecting systems such as computer-based gambling (col 9, lines 4-9). As such, the limitation recited in claim 22 is obvious to Matchett's invention because there needs to be a way to keep track of an individual's monetary amounts in gambling, i.e. the bets, the winnings, loses, etc. One of ordinary skill would have been motivated to modify Matchett's invention according to the limitations recited in claim 22 as it would allow for an effective and useful gambling system.

Claim 23:

Matchett does not explicitly disclose wherein the execution means further comprises means for sending the ancillary data through a message digest encoding algorithm to produce an electronically signed transmission. However, means for sending data through a message digest encoding algorithm to produce an electronically signed transmission was well known at the time the applicant's invention was made. One of ordinary skill would have been motivated to incorporate the aforementioned limitation into Matchett's invention because a signed transmission would further increase security in Matchett's invention.

Claim 24:

Matchett further discloses wherein the execution means further comprises means for validating an electronic transmission command (col 11, lines 43-56).

Claim 25:

Matchett further discloses wherein the biometric is comprised of any of the following: a finger print, a hand print, a voice print, a retinal image, and a handwriting sample (col 11, lines 26-31 and col 12, lines 15-18).

Claim 26:

Matchett does not explicitly disclose the at least one host system data processing center further comprises a comparison means having a prior fraud check means wherein the biometric sample gathered during registration is compared to a subset of previously registered biometric samples. However, the examiner asserts that running a background check on an individual before completing registration was well known in the art at the time the applicant's invention was made, i.e. running a credit check on an individual allows a credit card issuer to determine applicants who are prone to financial irresponsibility and gives the issuer a chance to deny an applicant a credit card when the applicant applies for a card.

In light of this, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have further modified Matchett's invention according to the limitations recited in claim 26. One of ordinary skill would have been motivated to do so as it would allow for determining individuals who have a history of fraud and prevent registration before it is complete.

Claim 27:

Matchett does not explicitly disclose wherein the at least gathering means further comprises means for data modification wherein ancillary data can be modified or deleted. However, Matchett discloses that his invention is ideal for protecting such systems as computer-based gambling (col 9, lines 4-9). Further, updating or deleting financial information was well known at the time the applicant's invention was made, i.e. people change banks or obtain a new credit card, so any payments using the bank's checks or credit card would have to have the account number changed. In light of this, the limitation recited in claim 27 was obvious to Matchett's invention because if an individual using the computer based gambling system changes banks or credit card, the account from which funds are added or subtracted would need to be updateable.

Claim 28:

As per claim 28, Matchett discloses the limitations of:

1. A gathering step for gathering real time data of biometric samples, wherein said gathering step uses a gathering means (Fig 5-6B; col 1, lines 31-46; and col 9, lines 19-28).
2. A biometric data transmittal step, wherein the real time data is transmitted to at least one host system data processing center (col 6, lines 2-11 and 52-61).
3. A comparison step, wherein the at least one host system data processing center, having records of biometric data of one or more enrolled individuals, compares the real time data with selected data, the comparison being to determine whether the real time data sufficiently matches the selected data as to authorize an

individual seeking access to at least one computer network (col 6, lines 2-11 and 52-61).

4. A computer network access step, wherein upon successful voluntary tokenless authorization of the individual seeking access, the individual seeking access is enabled to access at least one computer network (col 6, lines 52-61 and col 8, lines 9-11).
5. An interconnecting means data transmittal step, wherein:
 - a. The at least one interconnecting means comprises at least one of the following: wide area network, X.25, ATM network, Internet network, cable television network, wireless network, and cellular telephone network (col 6, lines 2-11 and col 7, lines 61-65).
 - b. For transmittal of data, the at least one system data processing center communicates using at least one of the following: the at least on interconnecting means linked to at least one gathering means or the at least one interconnecting means linked to at least one computer network (Fig 2-5; col 7, lines 20-28; col 9, lines 19-35).
 - c. Wherein the voluntary biometric authorization method is conducted without the individual seeking access being required to use a magnetic stripe card or a smart card (col 11, lines 47-64 and col 12, lines 23-30).

Matchett does not explicitly disclose that the selected data in which the real time data was compared with to determine sufficient matches was selected records (plurality

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emphasized). However, the examiner asserts that it was well known in the art to compare real time data (i.e. real time biometric data) that was collected from a user with selected records to determine sufficient matches. Gullman discloses real time (biometric) data being compared with selected records for sufficient matches (col 6, lines 13-16). In light of this, at the time applicant's invention was made, it would have been obvious to one of ordinary skill in the art to modify Matchett's invention such that the real time data was compared with selected records, the comparison being to determine whether the real time data sufficiently matches the selected records. One of ordinary skill would have been motivated to do so because it would provide for a more reliable authentication/authorization system. Note that one cannot guarantee the quality of the data gathered, so if one were to compare the gathered data with just one stored record, it would render inaccurate results more often than if one were to compare the gathered data with multiple samples and take an average of the comparisons.

Claim 29:

Claim 29 recites a limitation substantially similar to claim 2 and is rejected for the same reasons.

Claim 30:

Matchett does not explicitly disclose the step of determining one data processing center from among the at least one host system data processing centers. However, the examiner asserts that multiple data processing centers and choosing/determining one from among them was well known at the time the applicant's invention was made. It would have been obvious to one of ordinary skill in the art at the time the applicant's

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invention was made to have further modified Matchett's invention according to the limitation recited in claim 30 because it would allow authentication to be done faster by finding the least busy data processing center.

Claim 32:

Claim 32 recites a limitation substantially similar to claim 6 and is rejected for the same reasons.

Claim 33:

Matchett further discloses wherein the at least one computer network is within the at least one host system data processing center such that the at least one host system data processing center carries out the functions requested by the individual seeking access without use of an external, independent computer network (col 6, lines 37-48 and col 12, lines 31-43).

Claim 34:

Claim 34 recites a limitation substantially similar to claim 8 and is rejected for the same reasons.

Claim 35:

Claim 35 recites a limitation substantially similar to claim 26 and is rejected for the same reasons.

Claim 36:

Claim 36 recites a limitation substantially similar to claim 17 and is rejected for the same reasons.

Claim 41:

Claim 41 recites a limitation substantially similar to claim 19 and is rejected for the same reasons.

Claim 42:

Matchett further discloses wherein the execution step further comprises validating the electronic transmission command in a validate document step (col 6, lines 52-61 and col 9, lines 31-35).

Claim 43:

Claim 43 recites a limitation substantially similar to claim 20 and is rejected for the same reasons.

Claim 44:

Claim 44 recites a limitation substantially similar to claim 22 and is rejected for the same reasons.

Claim 45:

Claim 45 recites a limitation substantially similar to claim 23 and is rejected for the same reasons.

Claim 46:

Claim 46 recites a limitation substantially similar to claim 27 and is rejected for the same reasons.

Claim 47:

Claim 47 recites a limitation substantially similar to claim 11 and is rejected for the same reasons.

Claim 48:

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Claim 48 recites a limitation substantially similar to claim 25 and is rejected for the same reasons.

Claims 5 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matchett et al (US 5,229,764) in view of Gullman et al (US 5,280,527) and further in view of Kirk et al (US 5,655,116).

Claim 5:

As per claim 5, Matchett does not disclose wherein the at least one interconnecting means supports HTTP protocol. However, the examiner asserts that the limitation was well known at the time the applicant's invention was made. Kirk also discloses the limitation (col 6, lines 42-49). It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have further modified Matchett's invention according to the limitations recited in claim 5. One of ordinary skill would have been motivated to do so as having the interconnecting means support the HTTP protocol would allow for access to the reference biometric data using a standard Internet access protocol.

Claim 31:

Claim 31 recites a limitation substantially similar to claim 5 and is rejected for the same reasons.

Claims 18 and 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matchett et al (US 5,229,764) in view of Gullman et al (US 5,280,527) and further in view of Dunlevy (EP 598469).

Claim 18:

Matchett does not disclose the electronic transaction command is an electronic financial command comprising the execution of any of the following: a credit transaction, a debit transaction, a stored value transaction and an electronic check transaction. However, Dunlevy discloses a fraud prevention system for preventing fraud in electronic transactions wherein said electronic transaction is an electronic financial command comprising a credit transaction (col 2, lines 46-50). It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified Matchett's invention according to the limitations recited in claim 18. One of ordinary skill would have been motivated to do so as incorporating Matchett's teachings into Dunlevy's invention would result in improved security for credit card transactions.

Claim 37:

Claim 37 recites a limitation substantially similar to claim 18 and is rejected for the same reasons.

Claim 38:

Matchett further discloses wherein the execution step further comprises an electronic transaction execution step, wherein the electronic financial command is electronically executed (col 9, lines 4-8).

Claim 39:

Claim 39 recites a limitation substantially similar to claim 22 and is rejected for the same reasons.

Claim 40:

Matchett does not disclose wherein the ancillary data is sent through a message digest encoding algorithm step to produce an electronically signed transmission. However, sending data through a message digest encoding algorithm to produce an electronically signed transmission was well known at the time the applicant's invention was made. One of ordinary skill would have been motivated to incorporate the aforementioned limitation into Matchett and Dunlevy's combination invention because a signed transmission would further increase security in Matchett's invention.

Claims 49-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matchett et al (US 5,229,764) in view of applicant's admittance of prior art and further in view of Gullman et al (US 5,280,527).

Claim 49:

Matchett discloses a system for providing biometric authentication, the system comprising: at least one gathering means station, the at least one gathering means station providing selected real time data representing biometric characteristics of an individual who is using the at least one gathering means station (Fig 2-4; col 4, lines 31-46; and col 9, lines 19-28); at least one computer network, access of a first computer of the at least one computer network being sought by the individual using the at least one gathering means station and being dependent on authentication of the individual (col 6, lines 52-62 and col 8, lines 9-18); and a data processing center linked to at least one of the at least one of the gathering means and the at least one computer networks so as to receive the real time data (Fig 2-4), the data processing center having records of biometric data of one or more enrolled individuals, wherein the data processing center compares the real time data with selected data, the comparison being to determine whether the real time data sufficiently matches the selected data as to authenticate an individual seeking access to the first computer network, and wherein, upon successful authentication of the individual, the data processing network transmits the authorization to the first computer network (col 4, line 58-68 and col 6, lines 37-62).

Matchett does not explicitly disclose the gathering means station linked to the Internet and the at least one computer network linked to the Internet. However, Matchett further discloses the gathering means station is linked to a remote system/network (Fig 2; col 7, lines 61-65; and col 8, lines 9-18). Further, applicant discloses a network comprising the Internet was known at the time the applicant's invention was made (see specification, page 1, lines 27-29). Matchett also does not

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explicitly disclose that the selected data in which the real time data was compared with to determine sufficient matches was selected records (plurality emphasized). However, the examiner asserts that it was well known in the art to compare real time data (i.e. real time biometric data) that was collected from a user with selected records to determine sufficient matches. Gullman discloses real time (biometric) data being compared with selected records for sufficient matches (col 6, lines 13-16).

In light of the above, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention to have modified Matchett's invention according to the limitations recited in claim 49. One of ordinary skill would have been motivated to do so because the Internet provides an improved communication network and Matchett's invention would allow greater security to that network and because it would provide for a more reliable authentication/authorization system.

Claim 50:

Matchett further discloses wherein the data processing center connections are not via the Internet (Fig 2-4 and col 7, lines 61-65).

Claim 51:

Claim 51 recites a limitation substantially similar to claim 6 and is rejected for the same reasons.

Claim 52:

Claim 52 recites a limitation substantially similar to claim 7 and is rejected for the same reasons.

Claim 53:

Matchett does not explicitly disclose wherein the host system data processing center communicates using at least one of the following: the Internet linked to the gathering means or the Internet linked to the compute network. However, this limitation is obvious to Matchett's modified invention as recited in claim 49. The Internet is by nature a communication medium and the host system data processing center of Matchett's modified invention must use the Internet to communicate to the network it protects as the data center and the network are connected via the Internet.

Claim 54:

Matchett discloses a method for biometric authentication of individuals who are using a gathering means station, the individuals seeking access of a computer network, the method comprising the steps of: establishing biometric characteristics to be used in authentication; acquiring, at the gathering means station, biometric data in accordance with the biometric characteristics (Fig 5-6B; col 4, lines 58-64; col 6, lines 52-62; col 8, lines 9-11); receiving, at a data processing center, a message that includes real time data (Fig 5-6B and col 4, lines 61-64); selecting, at the data processing center, one or more records from among records associated with one or more enrolled individuals; comparing at the data processing center, real time data with selected data, the comparison determining whether the real time data sufficiently matches the selected data as to authenticate an individual seeking access to the computer network (Fig 5-6B; col 4, lines 58-64; col 6, lines 52-62; col 8, lines 9-11).

Matchett does not explicitly disclose the method is Internet-based and in the event of successful authorization, transmitting from the data processing center, the

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authorization to the computer network. However, applicant disclosed that it was well known at the time the applicant's invention was made to use the Internet as a communication network (see specification p1, lines 27-29). Applicant also discloses that it was well known for a terminal to send to a host computer an access should be allowed if the identity of an individual is verified (see specification p4, lines 13-18). Matchett also does not explicitly disclose that the selected data in which the real time data was compared with to determine sufficient matches was selected records (plurality emphasized). However, the examiner asserts that it was well known in the art to compare real time data (i.e. real time biometric data) that was collected from a user with selected records to determine sufficient matches. Gullman discloses real time (biometric) data being compared with selected records for sufficient matches (col 6, lines 13-16).

In light of the above, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified Matchett's invention according to the limitations recited in claim 54. One of ordinary skill would have been motivated to incorporate Matchett's teachings into pre-existing Internet based systems based because Matchett's teachings can provide increased security to computers and networks connected to the Internet. One of ordinary skill would have been motivated to in the event of successful authorization, transmitting from the data processing center, the authorization to the computer network because it is a standard way to enable access to a computer network. One of ordinary skill would have been motivated to compare real time data that was collected from a user with selected records to

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determine sufficient matches because and it because it would provide for a more reliable authentication/authorization system.

Claims 55-58:

Claims 55-58 recites limitations that are substantially similar to what are recited in claims 50-52 and 30 respectively and are rejected for the same reasons.

Claim 59:

Matchett does not explicitly disclose wherein the Internet is used during at least one of the following steps: receiving, at the data processing center, a message that includes real time data, and; transmitting, from the data processing center, the biometric authorization to the computer network in the event of successful authorization.

However, this limitation is obvious to Matchett's modified invention as recited in claim 54. The data processing center and the computer network are connected via the Internet, so to send the authorization to the computer network from the data processing center the Internet must be used.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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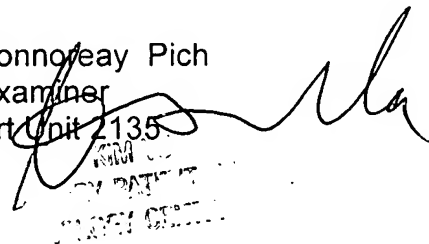
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ponnoreay Pich whose telephone number is 571-272-7962. The examiner can normally be reached on 9:00am-4:30pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ponnoreay Pich
Examiner
Art Unit 2135

A handwritten signature in black ink is written over a circular official stamp. The signature is cursive and appears to read 'P. Pich'. The stamp is partially obscured by the signature but contains some text, including 'EXAMINER' and 'ART UNIT 2135'.

PP